

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

GIFTBOXCENTER, LLC,

*Plaintiff,*

v.

PETBOX, INC.,

*Defendant.*

Civil Action No. 15-4390

**ORDER ADOPTING  
REPORT AND  
RECOMMENDATION**

**John Michael Vazquez, U.S.D.J.**

This matter comes before the Court on a *sua sponte* Report and Recommendation filed by Magistrate James B. Clark III on January 17, 2017 recommending that this Court strike Defendant's Answer pursuant to Federal Rule of Civil Procedure 37(b)(2), dismiss Defendant's counterclaim without prejudice, and enter default against Defendant. D.E. 36. The parties were given notice that, pursuant to Federal Rule of Civil Procedure 72(b)(2) and Local Civil Rule 71.1(c)(2), they had fourteen days to file an objection to Judge Clerk's recommendation. To date, it appears that neither party has objected. The Court has conducted a review of the record and of Judge Clark's Report and Recommendation for clear error,<sup>1</sup> and for good cause shown,

IT IS on this 10th day of March, 2017,

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<sup>1</sup> *De novo* review is required when an objection is made. 21 U.S.C. § 636(b)(1). *See also* Fed.R.Civ.P. 72(b)(3). However, when no objection is made, the Court reviews a magistrate judge's report and recommendation for clear error. *McKean v. Colvin*, 150 F. Supp. 3d 406, 409-10 (M.D. Pa. 2015).

**ORDERED** that the Report and Recommendation filed January 17, 2017 (D.E. 36) is **ADOPTED**<sup>2</sup> and made part of this Order; and it is further

**ORDERED** that that Defendant's Answer (D.E. 9) shall be stricken; and it is further

**ORDERED** that Defendant's Counterclaim (D.E. 9) is dismissed without prejudice; and it is further

**ORDERED** that the Clerk of the Court shall enter Default against Defendant; and it is further

**ORDERED** that the Clerk of the Court shall serve a copy of this order on Defendant via certified mail return receipt to its last known address: Petbox Inc. 11855 Sorrento Valley Road, Suite 521, San Diego, California 92121.<sup>3</sup>

  
John Michael Vazquez, U.S.D.J.

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<sup>2</sup> The Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1).

<sup>3</sup> The Court notes that the most recent correspondence to Defendant's last known address was returned as undeliverable. D.E. 37 & 38. The Court has not been notified of any address change by Defendant and will therefore send this order to the same address. *See* L. Civ. R. 10.1 (requiring that a party, whether represented by counsel or *pro se*, has an obligation to advise the Court of any change in address within seven days).